

ATHIENOU BUS CO. LTD.,

*Appellants-Plaintiffs,*

v.

KYRIACOS VASILIOU AND ANOTHER,

*Respondents-Defendants.*

ATHIENOU  
BUS CO. LTD.  
v.  
KYRIACOS  
VASILIOU  
AND ANOTHER

(Civil Appeal No. 4880).

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*Negligence—Road traffic accident—Collision between two motor vehicles—Findings of trial Court on issue of liability upheld.*

*Findings of fact—Based on credibility of witnesses—Principles on which Court of Appeal interferes—Contradictions in the evidence of respondent and his witnesses—Not contradictions which when viewed in the light of such principles, would entitle Court of Appeal to interfere with judgment appealed from.*

*Evidence in Civil Cases—Admission of plea of guilty to Criminal Charge—Weight.*

### **Appeal.**

Appeal by plaintiffs against the judgment of the District Court of Larnaca (A. Demetriou, D.J.) given on the 4th February, 1970 (Action No. 494/69) whereby the plaintiffs were found that they were vicariously liable, as employers of the drivers of one of their buses, to pay damages to the extent of 60% in connection with a collision.

*Ph. Clerides*, for the appellants.

*G. Nicolaidis*, for the respondents.

The judgment of the Court was delivered by :

TRIANTAFYLLIDES, J.: In this case the appellants-plaintiffs appeal from the judgment of the District Court of Larnaca, in civil action 494/69, delivered on the 4th February, 1970, by virtue of which it was found that they were vicariously liable, as employers of the driver of a bus of theirs, to pay damages to the extent of 60% in connection with a collision, on the 5th May, 1969, between their bus and a taxi, on the Nicosia-Larnaca road.

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The notice of appeal, as filed, contains two grounds : Firstly, that it was erroneous on the part of the trial court to find that the driver of the appellants was liable at all for the collision ; and, secondly, that the apportionment of liability, as made, was, in any event, wrong.

Counsel for the appellants did not pursue the second ground of appeal at the hearing of this case before us.

Regarding the first ground of appeal he has put forward two main arguments :

He has submitted that the evidence of respondent No. 1, who was the driver of the taxi, and of the defence witnesses, who were passengers in the taxi, should not have been believed because of the existence of certain contradictions. We have examined these contradictions and we are of the opinion that they are not in any way material and hence they do not undermine the credibility of the witnesses concerned ; they are, certainly, not contradictions which, when viewed in the light of the principles governing the powers of an appellate court to interfere with findings of fact made by a trial Court on the basis of credibility of witnesses, would entitle us to interfere with the judgment appealed from.

The other argument of counsel for appellants was that the trial Court did not attribute due weight to the fact that respondent No. 1 pleaded guilty to a criminal charge brought against him in respect of the collision. We do not share this view. It is clear from the reasoned judgment of the learned trial judge that, having admitted in evidence the fact of such plea of guilty (notwithstanding an objection to its admission), he duly took it into account as a factor relevant to the weight of the evidence of respondent No. 1 ; the expression, by the trial judge, in his judgment, of misgivings about the practice of admitting in evidence pleas of guilty does not indicate at all that he failed—as was submitted by counsel—to give due weight to the fact that respondent No. 1 had pleaded guilty in the criminal proceedings.

In any event, the finding as to liability as made by the trial Court and by which respondent No. 1 was found responsible for the collision to an extent of 40% is not inconsistent with the said plea of guilty.

We, therefore, find that there exists no ground on which this appeal could be allowed, and, in the result, we dismiss it with costs.

*Appeal dismissed with costs.*